

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
WESTERN DIVISION**

SKYLER L. VOGELSONG

202 Midland Avenue
Findlay, Ohio 45840

Plaintiff

v.

SOUTHERN PINES TRUCKING, INC.

4200 Industrial Boulevard
Aliquippa, PA 15001

and

DAVID L. BYERS, JR.

188 Sunnyside Road
New Castle, Pennsylvania 16102

Defendants.

) Case No.: 3:21-cv-1511

) Judge:

) **COMPLAINT**

) *(Jury Demand Endorsed Hereon)*

) Charles E. Boyk (0000494)

) Kathleen R. Harris (0088079)

) Andrea R. Young (0096334)

) Michael A. Bruno (0033780)

) Charles E. Boyk Law Offices, LLC

) 1500 Timberwolf Drive

) Holland, OH 43528

) Telephone: (419) 241-1395

) Facsimile: (419) 241-8731

) cboyk@charlesboyk-law.com

) kharris@charlesboyk-law.com

) ayoung@charlesboyk-law.com

) mbruno@charlesboyk-law.com

) Attorneys for Plaintiff

Now comes Plaintiff Skyler L. Vogelsong and hereby files this Complaint against Defendants Southern Pines Trucking, Inc. and David L. Byers, Jr. for injuries and damages arising from a clear liability semi-truck collision in which Defendant Byers failed to maintain the reasonable speed needed to bring the vehicle he was operating to a stop within the assured clear distance ahead of him, causing him to strike Plaintiff Skylar Vogelsong's vehicle. In support of her claims, Plaintiff states as follows:

THE PARTIES

1. Plaintiff Skyler L. Vogel song is an individual and a resident of Findlay, Hancock County, Ohio.
2. Defendant David L. Byers is an individual and a resident of New Castle, Lawrence County, Pennsylvania.
3. Defendant Southern Pines Trucking, Inc. is a motor carrier operating commercial motor vehicles transporting property in interstate commerce. Upon information and belief, it is registered with the Federal Motor Carrier Safety Administration and is a business entity organized under the laws of the State of Pennsylvania, with its principal place of business in Aliquippa, Pennsylvania. It is licensed to do business in the State of Ohio and was in the process of transporting goods in Hancock County, Ohio at the time of the incidents alleged herein.

JURISDICTION AND VENUE

1. Plaintiff incorporates by reference each preceding and succeeding paragraph as though fully rewritten herein.
2. This Court has original jurisdiction over this matter under 28 U.S.C. § 1332 because Plaintiff's citizenship is diverse from the Defendants' citizenship and because the amount in controversy exceeds Seventy-Five Thousand Dollars (\$75,000.00).
3. Venue is proper in this Court under 28 U.S.C. § 1391(b) because the incident and injury described herein occurred in Findlay, Hancock County, Ohio, which is located in this judicial district.

FACTUAL ALLEGATIONS

4. Plaintiffs incorporate by reference each preceding and succeeding paragraph as though fully rewritten herein.
5. On or about August 4, 2020, Plaintiff Skyler Vogelsong was lawfully operating her motor vehicle eastbound on Tiffin Avenue in Findlay, Hancock County, Ohio.
6. At the time of the incident, Plaintiff Skyler Vogelsong was appropriately stopped at a red light near the 2500 block of Tiffin Avenue in Findlay, Hancock County, Ohio.
7. At the same time, Defendant David L. Byers was operating a semi-truck eastbound on Tiffin Avenue in Findlay, Hancock County, Ohio, and was stopped at the red light near the 2500 block of Tiffin Avenue behind Plaintiff Skyler Vogelsong's vehicle.
8. When the light on Tiffin Avenue turned from red to green, Plaintiff Skyler Vogelsong began to properly proceed forward when Defendant Byers drove the semi-truck he was operating forward into the rear bumper of Plaintiff's car.
9. At all relevant times, the vehicle operated by Defendant Byers was individually or jointly owned, operated, leased, and/or controlled by Southern Pines Trucking, Inc.
10. At all relevant times, Defendant Byers was acting in the course and scope of his employment and/or agency with Defendant Southern Pines Trucking, Inc.
11. Plaintiff Skyler Vogelsong sought medical treatment later that day at Blanchard Valley Hospital where she began treating for serious personal injuries to her legs, back, neck, and head.
12. The Findlay Police Department responded to the scene and cited Defendant Byers for failure to operate his vehicle at a reasonable speed and failure to maintain assured clear distance, a violation of local code 333.03(A).

FIRST CAUSE OF ACTION
(Negligence – Defendant David L. Byers, Jr.)

13. Plaintiff incorporates by reference each preceding and succeeding paragraph as though fully rewritten herein.
14. Defendant David L. Byers, Jr. had a duty to exercise ordinary care and caution for the safety and welfare of others in the operation of a commercial motor vehicle, including by driving the tractor-trailer in a safe and reasonable manner, avoiding collisions, maintaining reasonable control and speed of the vehicle, and by adhering to the laws of the State of Ohio, the Federal Motor Carrier Safety Act, the Federal Motor Carrier Safety Regulations, and the rules of common law.
15. Defendant Byers breached his duties of care and was negligent by failing to maintain reasonable control over the tractor trailer he was operating, failing to maintain a reasonable speed, failing to maintain assured clear distance, failing to see Plaintiff's vehicle in front of him and by and colliding with Plaintiff Vogelsong's vehicle.
16. As a direct and proximate cause of Defendant Byers's negligence, Plaintiff Skyler Vogelsong sustained serious personal injuries, including but not limited to injuries to her legs, back, neck, and head. These injuries required medical care and caused Plaintiff Skyler Vogelsong to incur substantial medical and hospital care costs, lost wages along with other economic loss, and also caused pain and suffering, mental anguish, and emotional distress.

SECOND CAUSE OF ACTION
(Vicarious Liability – Southern Pines Trucking, Inc.)

17. Plaintiff incorporates by reference each preceding and succeeding paragraph as though fully rewritten herein.

18. At all relevant times, Defendant Byers was the employee, agent, servant, or independent contractor of Defendant Southern Pines Trucking, Inc. Accordingly, Defendant Southern Pines Trucking, Inc. is vicariously liable for the acts of Defendant Byers described herein.
19. Regardless of the employment or agency relationship, Defendant Southern Pines Trucking, Inc. is an interstate motor carrier and the registered owner or operator of the commercial motor vehicle driven by Defendant Byers and is therefore responsible for the acts of the Defendant-driver.

THIRD CAUSE OF ACTION
(Negligence – Southern Pines Trucking, Inc.)

20. Plaintiff incorporates by reference each preceding and succeeding paragraph as though fully rewritten herein.
21. Defendant Southern Pines Trucking, Inc. had a duty to act reasonably in hiring, instructing, training, supervising, and retaining all drivers operating under its federal motor carrier operating authority and other employees and agents, including Defendant Byers, and to promulgate and enforce policies, procedures, and rules to ensure that its drivers and vehicles were reasonably safe.
22. Defendant Southern Pines Trucking, Inc. had a duty to exercise reasonable care in all its actions and omissions.
23. Defendant Southern Pines Trucking, Inc. had a duty to exercise reasonable care in entrusting its vehicles and equipment to responsible, competent, and qualified drivers.
24. Defendant Southern Pines Trucking, Inc. failed in the above-mentioned duties and was therefore negligent.
25. Defendant Southern Pines Trucking, Inc.'s negligence was the direct and proximate cause of the injuries and damages described in this Complaint.

WHEREFORE, Plaintiff Skyler Vogelsong prays for judgment against Defendant Southern Pines Trucking, Inc. and Defendant David L. Byers, Jr. in an amount exceeding Seventy-Five Thousand Dollars (\$75,000.00), together with interest, costs, reasonable attorney fees associated herewith, and such other and further relief as the Court may deem just.

Respectfully submitted,

/s/ Charles E. Boyk
Charles E. Boyk (0000494)
Kathleen R. Harris (0088079)
Attorneys for Plaintiff

JURY DEMAND

Plaintiffs hereby demand a trial by jury on all issues triable by right.

Respectfully submitted,

/s/ Charles E. Boyk
Charles E. Boyk
Kathleen R. Harris
Attorneys for Plaintiff